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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/245,596	02/05/99	KUTCHMAREK	SPRINGS3.0-0

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QM22/0102

EXAMINER
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ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 01/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/245,596**

Applicant(s)  
**Kutchmarek et al.**

Examiner  
**Stephen Choi**

Group Art Unit  
**3724**



☒ Responsive to communication(s) filed on Oct 16, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 3-8 and 11-39 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 3-8 and 11-39 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 10

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment overcome the objections to the claims of the last office action.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-8, 11 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Vertunni et al.

Fegley et al. discloses the invention substantially as claimed including:

- a) a base (1) having a substantially flat cutting surface having a first and second end (Fig. 1);
- b) a frame (6) overlying the cutting surface and mounted to the base;
- c) a receiving area (Fig. 1);
- d) a cutting assembly (10) slidably mounted to the frame for sliding along a movement axis having a first component extending in a direction substantially

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- parallel to the cutting surface and second component extending in a direction substantially perpendicular to the cutting surface (Fig. 1 and 6);
- e) a cutting blade including a cutting edge (11);
- f) a driver including rack and pinion gear arrangement (13-15);
- g) a guide track (12) extending substantially parallel to the movement axis (Fig. 1 and 6);
- h) a lever (8) including a handle (19).

Fegley et al. does not disclose the cutting edge remains substantially parallel to the substantially flat cutting surface during movement along the movement axis. Vertunni discloses an apparatus having a blade (21) having a cutting edge slidably supported and provided with a leverage that provides a parallel and shearing action. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fegley's device with Vertunni's teaching in order to improve cutting action to provide clean cut ends.

With respect to claims 12-14, Fegley et al. discloses a backup bar opposing the cutting edge (the cutting surface of Fegley et al.). Fegley et al. does not disclose the backup bar made of nylon. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a cutting surface made from nylon, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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4. Claims 15-19 and 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Vertunni et al. as applied to claims 11 and 38, and further in view of Sands et al.

With respect to claims 15-19, Fegley et al. and Vertunni et al. disclose the invention substantially as claimed except a guide rail including a mandrel. Sands et al. discloses anvil (44) having an outer profile (49) designed to correspond with the inner contour of the head rail. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an anvil as taught by Sands et al. on the modified device of Fegley in order to facilitate securely holding of the head rail in place and prevents from twisting while it is being cut.

With respect to claims 23-30, Fegley et al. and Vertunni et al. disclose the invention substantially as claimed except for:

- 1) the cutting blade including a massive portion and a pocket and the massive portion being thicker than the pocket;
- 2) the pocket is contiguous with the cutting edge and the massive portion surrounds the pocket;
- 3) the massive portion of the cutting blade is approximately 0.40-0.50 inches thick and the pocket is approximately 0.10-0.20 inches thick;
- 4) the cutting blade includes a first face substantially flat and a second face including the pocket;

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- 5) the pocket including a tapered region extending from the cutting edge and the tapered region having a thickness increases as the distance from the cutting edge increases;
- 6) the tapered region includes a first tapered section extending away from the cutting edge and the first tapered section and the first face defining a first acute angle;
- 7) the tapered region includes a second tapered section extending from the first tapered section and remote from the cutting edge;
- 8) the second tapered section and the first face defining a second acute angle which is smaller than the first acute angle.

However, Sands et al. disclose a cutter blade (31) with front surface (120), a tapered region (124) which tapers from back surface (122) into general proximity with cutting edge (70), a bevel (126) forming a larger acute angle (129) with longitudinal axis (128) than does tapered region (124) which forms an acute angle (130). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a cutting blade as taught by Sands et al. on the modified device of Fegley in order to improve the strength and durability to make efficient cutting. With respect to claim 26, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make Fegley's blade with such range of thickness, since it has been held that where the general conditions of a claim are

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disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

5. Claims 20-22 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Vertunni et al. as applied to claim 38 above, and further in view of Margolien.

With respect to claims 20-22, Fegley et al. and Vertunni et al. disclose the invention substantially as claimed except for a clamping assembly. Margolien discloses a vise (41) having a handle (41a) and jaws (41b, 41c) to clamp a workpiece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a clamping assembly as taught by Margolien on the modified device of Fegley in order to secure a workpiece in a desired position.

With respect to claim 34, Fegley et al. and Vertunni et al. disclose the invention substantially as claimed except for a measuring assembly. Margolien discloses a scale (57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a measuring device as taught by Margolien on the modified device of Fegley in order to measure the specified length.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Vertunni et al., and further in view of Sands et al. as applied to claim 30 above, and further in view of Margolien.

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Fegley et al., Vertunni et al. and Sands et al. disclose the invention substantially as claimed except for a measuring assembly. Margolien discloses a scale (57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a measuring device as taught by Margolien on the modified device of Fegley et al. in order to measure the specified length.

7. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Vertunnie et al. and further in view of Sands et al., and further in view of Margolien as applied to claim 31 above, and further in view of Yannazzone.

Fegley et al., Vertunnie et al., Sands et al. and Margolien disclose the invention substantially as claimed except a stop block movable away from the second end during operation and the pocket facing the second end. Yannazzone teaches a stop (32) being removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. With respect to claim 33, see Fig. 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop as taught by Yannazzone on the modified device of Fegley et al. in order to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.



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8. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegley et al. in view of Vertunnie et al., and further in view of Margolien as applied to claim 34 above, and further in view of Yannazzone.

Fegley et al., Vertunnie et al. and Margolien disclose the invention substantially as claimed including a ruler (57) for measuring the workpiece. Fegley et al., Vertunnie et al. and Margolien do not disclose a stop block movable between a first position in which the stop block engages the workpiece and a second position in which the stop block is remote from the workpiece. Yannazzone teaches that the stop (32) is removed after shaped clamps (34) fasten the stack of slats (16) onto the shaped anvils (12) so that the free ends (16a) of the slats are allowed to fall away freely, without being impeded by anything, for instance by the stops (32) or clamps to obtain a smooth end and smooth corners of the finished cut slats. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a stop as taught by Yannazzone on the modified device of Fegley et al. in order to reduce the force exerted by the cutting blade and to prevent the likelihood of cracking the workpiece while being cut.

### ***Response to Arguments***

9. In response to the § 103(a) rejection of the last office action, applicant's remarks indicate that there is an amendment to claim 38 which is only independent claim in the instant invention however, no such amendment has been made. Since applicant's arguments are based on the newly amended independent claim, no proper response can be made by the examiner.

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***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning the content of this communication or earlier communications from the examiner should be directed to S. Choi whose telephone number is (703) 306-4523. The examiner can normally be reached on Monday through Friday from 9:30 AM to 3:30 PM. Any inquiries concerning other than the content of this and previous communications, such as missing references or filed papers not acknowledged, should be directed to the Customer Service Representative, Tech Center 3700, (703) 306-5648.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Choi of Art Unit 3724 at the top of your cover sheet.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

sc

December 26, 2000



**KENNETH E. PETERSON**  
**PRIMARY EXAMINER**